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TEXT OF CANADIAN INDUSTRIAL DISPUTES INVESTIGATION ACT

AND

SUMMARY OF INDUSTRIAL CONCILIATION AND ANTISTRIKE LEGISLATION RELATING TO PUBLIC UTILITIES OF VARIOUS COUNTRIES

WASHINGTON
GOVERNMENT PRINTING OFFICE
1917

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TEXT OF CANADIAN INDUSTRIAL DISPUTES INVESTIGATION ACT OF 1907.

DOMINION OF CANADA.

Industrial Disputes Investigation Act, 1907, amended 1910.

AN ACT To aid in the prevention and settlement of strikes and lockouts in mines and industries connected with public utilities. (*6–7 Edward VII, chap. 20, as amended by 9–10 Edward VII, chap. 29.*)

SECTION 1. This act may be cited as *The Industrial Disputes Investigation Act*, 1907. Short title.

PRELIMINARY.

INTERPRETATION.

SEC. 2. In this act, unless the context otherwise requires— Definitions.

(*a*) "Minister" means the minister of labor.

(*b*) "Department" means department of labor.

(*c*) "Employer" means any person, company, or corporation employing ten or more persons and owning or operating any mining property, agency of transportation or communication, or public-service utility, including, except as hereinafter provided, railways, whether operated by steam, electricity, or other motive power, steamships, telegraph and telephone lines, gas, electric light, water and power works.

(*d*) "Employee" means any person employed by an employer to do any skilled or unskilled manual or clerical work for hire or reward in any industry to which this act applies.

(*e*) "Dispute" or "industrial dispute" means any dispute or difference between an employer and one or more of his employees as to matters or things affecting or relating to work done or to be done by him or them, or as to the privileges, rights, and duties of employers or employees (not involving any such violation thereof as constitutes an indictable offence); and, without limiting the general nature of the above definition, includes all matters relating to—

(1) The wages, allowance, or other remuneration of employees, or the price paid or to be paid in respect of employment.

(2) The hours of employment, sex, age, qualification, or status of employees and the mode, terms, and conditions of employment.

(3) The employment of children or any person or persons or class of persons, or the dismissal of or refusal to employ any particular person or persons or class of persons.

(4) Claims on the part of an employer or any employee as to whether and, if so, under what circumstances preference of employment should or should not be given to one class over another of persons being or not being members of labor or other organizations, British subjects, or aliens.

(5) Materials supplied and alleged to be bad, unfit, or unsuitable, or damage alleged to have been done to work.

(6) Any established custom or usage, either generally or in the particular district affected.

(7) The interpretation of an agreement or a clause thereof.

(*f*) "Lockout" (without limiting the nature of its meaning) means a closing of a place of employment, or a suspension of work, or a refusal by an employer to continue to employ any number of his employees in consequence of a dispute, done with a view to compelling his employees, or to aid another employer in compelling his employees, to accept terms of employment.

(*g*) "Strike" or "to go on strike" (without limiting the nature of its meaning) means the cessation of work by a body of employees acting in combination, or a concerted refusal, or a refusal under a common understanding of any number of employees to continue to work for an employer, done or [illegible] dispute,

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done as a means of compelling their employer, or to aid other employees in compelling their employer, to accept terms of employment.

(*h*) "Board" means a board of conciliation and investigation established under the provisions of this act.

(*i*) "Application" means an application for the appointment of a board under the provisions of this act.

(*j*) "Registrar" means the registrar of boards of conciliation and investigation under this act.

(*k*) "Prescribed" means prescribed by this act or by any rules or regulations made thereunder.

(*l*) "Trade-union" or "union" means any organization of employees formed for the purpose of regulating relations between employers and employees.

ADMINISTRATION.

Minister of labor.

SEC. 3. The minister of labor shall have the general administration of this act.

Registrar.

SEC. 4. The governor in council shall appoint a register of boards of conciliation and investigation, who shall have the powers and perform the duties prescribed.

2. The office of registrar may be held either separately or in conjunction with any other office in the public service, and in the latter case the registrar may, if the governor in council thinks fit, be appointed, not by name, but by reference to such other office, whereupon the person who for the time being holds such office, or performs its duties, shall by virtue thereof be the registrar.

BOARDS OF CONCILIATION AND INVESTIGATION.

CONSTITUTION OF BOARDS.

Applications for reference.

SEC. 5. Whenever any dispute exists between an employer and any of his employees, and the parties thereto are unable to adjust it, either of the parties to the dispute may make application to the minister for the appointment of a board of conciliation and investigation, to which board the dispute may be referred under the provisions of this act: *Provided, however*, That in the case of a dispute between a railway company and its employees such dispute may be referred, for the purpose of conciliation and investigation, under the provisions concerning railway disputes in the conciliation and labor act.

Appointment of boards.

SEC. 6. Whenever, under this act, an application is made in due form for the appointment of a board of conciliation and investigation, and such application does not relate to a dispute which is a subject of a reference under the provisions concerning railway disputes in the conciliation and labor act, the minister, whose decision for such purpose shall be final, shall, within fifteen days from the date at which the application is received, establish such board under his hand and seal of office, if satisfied that the provisions of this act apply.

Membership.

SEC. 7. Every board shall consist of three members who shall be appointed by the minister.

2. Of the three members of the board one shall be appointed on the recommendation of the employer and one on the recommendation of the employees (the parties to the dispute) and the third on the recommendation of the members so chosen.

Mode of appointment of members.

SEC. 8. For the purposes of appointment of the members of the board the following provisions shall apply:

1. Each party to the dispute may, at the time of making application or within five days after being requested so to do by the minister, recommend the name of one person who is willing and ready to act as a member of the board, and the minister shall appoint such person a member of the board.

2. If either of the parties fails or neglects to duly make any recommendation within the said period, or such extension thereof as

the minister, on cause shown, grants, the minister shall, as soon thereafter as possible, appoint a fit person to be a member of the board, and such member shall be deemed to be appointed on the recommendation of the said party.

3. The members chosen on the recommendation of the parties may, within five days after their appointment, recommend the name of one person who is willing and ready to act as a third member of the board, and the minister shall appoint such person a member of the board.

4. If the members chosen on the recommendation of the parties fail or neglect to duly make any recommendation within the said period, or such extension thereof as the minister, on cause shown, grants, the minister shall, as soon thereafter as possible, appoint a fit person to be a third member of the board, and such member shall be deemed to be appointed on the recommendation of the two other members of the board.

5. The third member shall be the chairman of the board.

Notice of appointment.

SEC. 9. As soon as possible after the full board has been appointed by the minister, the registrar shall notify the parties of the names of the members of the board and the chairman thereof, and such notification shall be final and conclusive for all purposes.

Term.

SEC. 10. Every member of a board shall hold office from the time of his appointment until the report of the board is signed and transmitted to the minister.

Pecuniary interest.

SEC. 11. No person shall act as a member of a board who has any direct pecuniary interest in the issue of a dispute referred to such board.

Vacancies.

SEC. 12. Every vacancy in the membership of a board shall be supplied in the same manner as in the case of the original appointment of every person appointed.

Oath.

SEC. 13. Before entering upon the exercise of the functions of their office the members of a board, including the chairman, shall make oath or affirmation before a justice of the peace or other person authorized to administer an oath or affirmation, that they will faithfully and impartially perform the duties of their office, and also that, except in the discharge of their duties, they will not disclose to any person any of the evidence or other matter brought before the board.

Assistants.

SEC. 14. The department may provide the board with a secretary, stenographer, or such other clerical assistance as to the minister appears necessary for the efficient carrying out of the provisions of this act.

PROCEDURE FOR REFERENCE OF DISPUTES TO BOARDS.

Applications made, how.

SEC. 15. For the purpose of determining the manner in which and the persons by whom an application for the appointment of a board is to be made, the following provisions shall apply:

1. The application shall be made in writing in the prescribed from and shall be in substance a request to the minister to appoint a board to which the existing dispute may be referred under the provisions of this act.

2. The application shall be accompanied by—

(*a*) A statement setting forth—

(1) The parties to the dispute;

(2) The nature and cause of the dispute, including any claims or demands made by either party upon the other to which exception is taken;

(3) An approximate estimate of the number of persons affected or likely to be affected by the dispute;

(4) The efforts made by the parties themselves to adjust the dispute;

and—

Declarations.

(*b*) A statutory declaration setting forth that, failing an adjustment of the dispute or a reference thereof by the minister to a board, to the best of the knowledge and belief of the declarant a lockout or strike will be declared, and (except where the appli-

cation is made by an employer in consequence of an intended change in wages or hours proposed by the said employer) that the necessary authority to declare such lockout or strike has been obtained; or, where a dispute directly affects employees in more than one Province, and such employees are members of a trade union having a general committee authorized to carry on negotiations in disputes between employers and employees and so recognized by the employer, a statutory declaration by the chairman or president and by the secretary of such committee, setting forth that, failing an adjustment of the dispute or a reference thereof by the minister to a board, to the best of the knowledge and belief of the declarants a strike will be declared, that the dispute has been the subject of negotiations between the committee and the employer, that all efforts to obtain a satisfactory settlement have failed, and that there is no reasonable hope of securing a settlement by further negotiations.

3. The application may mention the name of a person who is willing and ready and desires to act as a member of the board representing the party or parties making the application.

Signatures to application.

SEC. 16. The application and the declaration accompanying it—

(1) If made by an employer, an incorporated company or corporation, shall be signed by some one of its duly authorized managers or other principal executive officers;

(2) If made by an employer other than an incorporated company or corporation, shall be signed by the employer himself in case he is an individual, or a majority of the partners or members in case of a partnership firm or association;

(3) If made by employees members of a trade union, shall be signed by two of its officers duly authorized by a majority vote of the members of the union or by a vote taken by ballot of the members of the union present at a meeting called on not less than three days' notice for the purpose of discussing the question; or, where a dispute directly affects employees in more than one Province and such employees are members of a trade union having a general committee authorized to carry on negotiations in disputes between employers and employees and so recognized by the employer, may be signed by the chairman or president and by the secretary of the said committee;

(4) If made by employees some or all of whom are not members of a trade union, shall be signed by two of their number duly authorized by a majority vote taken by ballot of the employees present at a meeting called on not less than three days' notice for the purpose of discussing the question.

Transmission.

SEC. 17. Every application for the appointment of a board shall be transmitted by post by registered letter addressed to the registrar of boards of conciliation and investigation, department of labor, Ottawa, and the date of the receipt of such registered letter at the department shall be regarded as the date of the receipt of such application.

Notice to other party.

SEC. 18. In every case where an application is made for the appointment of a board the party making application shall, at the time of transmitting it to the registrar, also transmit, by registered letter to the other party to the dispute, or by personal delivery, a copy of the application and of the accompanying statement and declaration.

Reply.

SEC. 19. Upon receipt by either party to a dispute of a copy of the application for the appointment of a board such party shall, without delay, prepare a statement in reply to the application and transmit it by registered letter, or by personal delivery, to the registrar and to the party making the application.

Persons to be notified.

SEC. 20. Copies of applications or statements in reply thereto to be transmitted to the other party under any of the preceding sections where the other party is—

(1) An employer, an incorporated company or corporation, shall be sent to the manager or other principal executive officer of the company or corporation;

(2) An employer other than an incorporated company or corporation, shall be sent to the employer himself or to the employer in the name of the business or firm as commonly known;

(3) Composed of employees, members of a trade union, shall be sent to the president and secretary of such union;

(4) Composed of employees some or all of whom are not members of a trade union—

(*a*) Where some of the employees are members of a trade union, shall be sent to the president and secretary of the union as representing the employees belonging to the union; also

(*b*) Where some of the employees are not members of a trade union and there are no persons authorized to represent such employees, shall be sent to ten of their number;

(*c*) Where, under paragraph (4) of section 16, two persons have been authorized to make an application, shall be sent to such two persons.

Jurisdiction.

SEC. **21.** Any dispute may be referred to a board by application in that behalf made in due form by any party thereto; provided that no dispute shall be the subject of reference to a board under this act in any case in which the employees affected by the dispute are fewer than ten.

Reference to board.

SEC. **22.** Upon the appointment of the board the registrar shall forward to the chairman a copy of the application for the appointment of such board, and of its accompanying statement and declaration, and of the statement in reply, and the board shall forthwith proceed to deal with the matters referred to in these documents.

FUNCTIONS, POWERS, AND PROCEDURE OF BOARDS.

Duties of board.

SEC. **23.** In every case where a dispute is duly referred to a board it shall be the duty of the board to endeavor to bring about a settlement of the dispute, and to this end the board shall, in such manner as it thinks fit, expeditiously and carefully inquire into the dispute and all matters affecting the merits thereof and the right of settlement thereof. In the course of such inquiry the board may make all such suggestions and do all such things as it deems right and proper for inducing the parties to come to a fair and amicable settlement of the dispute, and may adjourn the proceedings for any period the board thinks reasonable to allow the parties to agree upon terms of settlement.

Settlements.

SEC. **24.** If a settlement of the dispute is arrived at by the parties during the course of its reference to the board, a memorandum of the settlement shall be drawn up by the board and signed by the parties, and shall, if the parties so agree, be binding as if made a recommendation by the board under section 62 of this act, and a copy thereof with a report upon the proceedings shall be forwarded to the minister.

Recommendations.

SEC. **25.** If a settlement of the dispute is not arrived at during the course of its reference to the board, the board shall make a full report thereon to the minister, which report shall set forth the various proceedings and steps taken by the board for the purpose of fully and carefully ascertaining all the facts and circumstances, and shall also set forth such facts and circumstances, and its findings therefrom, including the cause of the dispute and the board's recommendation for the settlement of the dispute according to the merits and substantial justice of the case.

Form.

SEC. **26.** The board's recommendation shall deal with each item of the dispute and shall state in plain terms, and avoiding as far as possible all technicalities, what in the board's opinion ought or ought not to be done by the respective parties concerned. Wherever it appears to the board expedient so to do, its recommendation shall also state the period during which the proposed settlement should continue in force and the date from which it should commence.

Report and recommendation to be in writing.

SEC. 27. The board's report and recommendation shall be made to the minister in writing and shall be signed by such of the members as concur therein, and shall be transmitted by the chairman by registered letter to the registrar as soon as practicable after the reference of the dispute to the board; and in the same manner a minority report may be made by any dissenting member of the board.

Filing and distribution of report.

SEC. 28. Upon receipt of the board's report the minister shall forthwith cause the report to be filed in the office of the registrar and a copy thereof to be sent free of charge to the parties to the dispute and to the representative of any newspaper published in Canada who applies therefor, and the minister may distribute copies of the report and of any minority report in such manner as to him seems most desirable as a means of securing a compliance with the board's recommendation. The registrar shall, upon application, supply certified copies for a prescribed fee to persons other than those mentioned in this section.

Publication of report.

SEC. 29. For the information of Parliament and the public, the report and recommendation of the board and any minority report shall, without delay, be published in the Labor Gazette and be included in the annual report of the department of labor to the governor general.

Powers of board to summon witnesses, etc.

SEC. 30. For the purpose of its inquiry the board shall have all the powers of summoning before it and enforcing the attendance of witnesses, of administering oaths, and of requiring witnesses to give evidence on oath or on solemn affirmation (if they are persons entitled to affirm in civil matters) and to produce such books, papers, or other documents or things as the board deems requisite to the full investigation of the matters into which it is inquiring, as is vested in any court of record in civil cases.

2. Any member of the board may administer an oath, and the board may accept, admit, and call for such evidence as in equity and good conscience it thinks fit, whether strictly legal evidence or not.

Form of summons.

SEC. 31. The summons shall be in the prescribed form, and may require any person to produce before the board any books, papers, or other documents or things in his possession or under his control in any way relating to the proceedings.

Matters confidential.

SEC. 32. All books, papers, and other documents or things produced before the board, whether voluntarily or in pursuance to summons, may be inspected by the board and also by such parties as the board allows; but the information obtained therefrom shall not, except in so far as the board deems it expedient, be made public, and such parts of the books, papers, or other documents as in the opinion of the board do not relate to the matter at issue may be sealed up.

Parties as witnesses.

SEC. 33. Any party to the proceedings shall be competent and may be compelled to give evidence as a witness.

Allowance to witnesses.

SEC. 34. Every person who is summoned and duly attends as a witness shall be entitled to an allowance for expenses according to the scale for the time being in force with respect to witnesses in civil suits in the superior courts in the province where the inquiry is being conducted.

Witnesses in railway disputes.

SEC. 35. Where a reference has been made to the board of a dispute between a railway company and its employees, any witness summoned by the board in connection with the dispute shall be entitled to free transportation over any railway en route when proceeding to the place of meeting of the board and thereafter returning to his home, and the board shall furnish to such witness a proper certificate evidencing his right to such free transportation.

Failure to obey summons.

SEC. 36. If any person who has been duly served with such summons and to whom at the same time payment or tender has been made of his reasonable traveling expenses according to the aforesaid scale fails to duly attend or to duly produce any book, paper, or other document or thing as required by his summons he shall be guilty of an offence and liable to a penalty not exceeding one hundred dollars, unless he shows that there was good and sufficient cause for such failure.

Contempt.

SEC. 37. If, in any proceedings before the board, any person wilfully insults any member of the board or wilfully interrupts the proceedings, or without good cause refuses to give evidence, or is guilty in any other manner of any wilful contempt in the face of the board, any officer of the board or any constable may take the person offending into custody and remove him from the precincts of the board, to be detained in custody until the rising of the board, and the person so offending shall be liable to a penalty not exceeding one hundred dollars.

Inspections, etc.

SEC. 38. The board, or any member thereof, and, on being authorized in writing by the board, any other person, may, without any other warrant than this act, at any time, enter any building mine, mine workings, ship, vessel, factory workshop, place or premises of any kind, wherein or in respect of which any industry is carried on or any work is being or has been done or commenced, or any matter or thing is taking place or has taken place, which has been made the subject of a reference to the board, and inspect and view any work, material, machinery, appliance, or article therein and interrogate any persons in or upon any such building, mine, mine workings, ship, vessel, factory, workshop, place, or premises as aforesaid in respect of or in relation to any matter or thing hereinbefore mentioned, and any person who hinders or obstructs the board or any such person authorized as aforesaid in the exercise of any power conferred by this section shall be guilty of an offense and be liable to a penalty not exceeding one hundred dollars.

Representation.

SEC. 39. Any party to a reference may be represented before the board by three or less than three persons designated for the purpose, or by counsel or solicitor where allowed as hereinafter provided.

Principals bound.

SEC. 40. Every party appearing by a representative shall be bound by the acts of such representative.

Counsel.

SEC. 41. No counsel or solicitor shall be entitled to appear or be heard before the board, except with the consent of the parties to the dispute, and notwithstanding such consent the board may decline to allow counsel or solicitors to appear.

Eligibles.

SEC. 42. Persons other than British subjects shall not be allowed to act as members of a board.

Presence of parties.

SEC. 43. If, without good cause shown, any party to proceedings before the board fails to attend or to be represented, the board may proceed as if he had dully attended or had been represented.

Sittings.

SEC. 44. The sittings of the board shall be held at such time and place as are from time to time fixed by the chairman, after consultation with the other members of the board, and the parties shall be notified by the chairman as to the time and place at which sittings are to be held: *Provided*, That so far as practicable the board shall sit in the locality within which the subject-matter of the proceeding before it arose.

Meetings public.

SEC. 45. The proceedings of the board shall be conducted in public, provided that any such proceedings before it, the board, on its own motion, or on the application of any of the parties, may direct that the proceedings shall be conducted in private and that all persons other than the parties, their representatives, the officers of the board, and the witnesses under examination shall withdraw.

Decisions.

SEC. 46. The decision of a majority of the members present at a sitting of the board shall be the decision of the board, and the findings and recommendations of the majority of its members shall be those of the board.

Quorum.

SEC. 47. The presence of the chairman and at least one other member of the board shall be necessary to constitute a sitting of the board.

Presence of members.

SEC. 48. In case of the absence of any one member from a meeting of the board, the other two members shall not proceed, unless it is shown that the third member has been notified of the meeting in ample time to admit of his attendance.

2. If any member of a board dies, or becomes incapacitated, or refuses or neglects to act, his successor shall be appointed in the manner provided with respect to the original member of the board.

Trivial matters.

SEC. **49.** The board may at any time dismiss any matter referred to it which it thinks frivolous or trivial.

Employment of experts.

SEC. **50.** The board may, with the consent of the minister, employ competent experts or assessors to examine the books or official reports of either party and to advise it upon any technical or other matter material to the investigation, but shall not disclose such reports or the result of such inspection or examination under this section without the consent of both the parties to the dispute.

REMUNERATION AND EXPENSES OF BOARD.

Remuneration of members.

SEC. **51.** The members of a board shall be remunerated for their services as follows:

(*a*) To members other than the chairman an allowance of five dollars a day for a time not exceeding three days during which the members may be actually engaged in selecting a third member of the board.

(*b*) To each member of the board, including the chairman, an allowance at the rate of twenty dollars for each day's sitting of the board and for each day necessarily engaged in traveling from or to his place of residence to attend or after attending a meeting of the board.

Acceptance of gratuities.

SEC. **52.** No member of the board shall accept in addition to his salary as a member of the board any perquisite or gratuity of any kind from any corporation, association, partnership, or individual in any way interested in any matter or thing before or about to be brought before the board in accordance with the provisions of this act. The accepting of such perquisite or gratuity by any member of the board shall be an offence and shall render such member liable to a fine not exceeding one thousand dollars.

Traveling expenses.

SEC. **53.** Each member of the board will be entitled to his actual necessary traveling expenses for each day that he is engaged in traveling from or to his place of residence for the purpose of attending or after having attended a meeting of the board.

Expenses.

SEC. **54.** All expenses of the board, including expenses for transportation incurred by the members thereof or by persons under its order in making investigations under this act, salaries of employees and agents, and fees and mileage to witnesses shall be allowed and paid upon the presentation of itemized vouchers therefor, approved by the chairman of the board, which vouchers shall be forwarded by the chairman to the minister. The chairman shall also forward to the minister a certified and detailed statement of the sittings of the board and of the members present at such sittings.

DUTIES OF THE REGISTRAR.

General duties.

SEC. **55.** It shall be the duty of the registrar—

(*a*) To receive and register and, subject to the provisions of this act, to deal with all applications by employers or employees for a reference of any dispute to a board, and to at once bring to the minister's attention every such application;

(*b*) To conduct such correspondence with the parties and members of boards as may be necessary to constitute any board as speedily as possible in accordance with the provisions of this act;

(*c*) To receive and file all reports and recommendations of boards, and conduct such correspondence and do such things as may assist in rendering effective the recommendations of the boards in accordance with the provisions of this act;

(*d*) To keep a register in which shall be entered the particulars of all applications, references, reports, and recommendations relating to the appointment of a board and its proceedings; and to safely keep all applications, statements, reports, recommendations and other documents relating to proceedings before the board and, when so required, transmit all or any of such to the minister;

(*e*) To supply to any parties, on request, information as to this act or any regulations or proceedings thereunder, and also to furnish parties to a dispute and members of the board with necessary blank forms, forms of summons, or other papers or documents required in connection with the effective carrying out of the provisions of this act;

(*f*) Generally, to do all such things and take all such proceedings as may be required in the performance of his duties prescribed under this act or any regulations thereunder.

STRIKES AND LOCKOUTS PRIOR TO AND PENDING A REFERENCE TO A BOARD ILLEGAL.

Strikes forbidden.

SEC. **56.** It shall be unlawful for any employer to declare or cause a lockout, or for any employee to go on strike, on account of any dispute prior to or during a reference of such dispute to a board of conciliation and investigation under the provisions of this act or prior to or during a reference under the provisions concerning railway disputes in the conciliation and labor act: *Provided*, That nothing in this act shall prohibit the suspension or discontinuance of any industry or of the working of any person therein for any cause not constituting a lockout or strike: *Provided also*, That, except where the parties have entered into an agreement under section 62 of this act, nothing in this act shall be held to restrain any employer from declaring a lockout, or any employee from going on strike in respect of any dispute which has been duly referred to a board and which has been dealt with under section 24 or 25 of this act, or in respect of any dispute which has been the subject of a reference under the provisions concerning railway disputes in the conciliation and labor act.

Status to be maintained.

SEC. **57.** Employers and employees shall give at least thirty days' notice of an intended change affecting conditions of employment with respect to wages or hours, and in the event of such intended change resulting in a dispute, until the dispute has been finally dealt with by a board, neither of the parties affected shall alter the conditions of employment with respect to wages or hours, or on account of the dispute do or be concerned in doing, directly or indirectly, anything in the nature of a lockout or strike, or a suspension or discontinuance of employment or work, but the relationship of employer and employee shall continue uninterrupted by the dispute or anything arising out of the dispute; but if in the opinion of the board either party uses this or any other provision of this act for the purpose of unjustly maintaining a given condition of affairs through delay, and the board so reports to the minister, such party shall be guilty of an offence and liable to the same penalties as are imposed for a violation of the next preceding section.

Penalty for causing lockout.

SEC. **58.** Any employer declaring or causing a lockout contrary to the provisions of this act shall be liable to a fine of not less than $100 nor more than $1,000 for each day or part of a day that such lockout exists.

Penalty for going on strike.

SEC. **59.** Any employee who goes on strike contrary to the provisions of this act shall be liable to a fine of not less than $10 nor more than $50 for each day or part of a day that such employee is on strike.

Penalty for inciting to lockout or strike.

SEC. **60.** Any person who incites, encourages, or aids in any manner any employer to declare or continue a lockout, or any employee to go or continue on strike contrary to the provisions of

this act, shall be guilty of an offense and liable to a fine of not less than $50 nor more than one thousand dollars.

Enforcing penalties.

SEC. 61. The procedure for enforcing penalties imposed or authorized to be imposed by this act shall be that prescribed by Part XV of the Criminal Code relating to summary convictions.

SPECIAL PROVISIONS.

Recommendations binding, when.

SEC. 62. Either party to a dispute which may be referred under this act to a board may agree in writing, at any time before or after the board has made its report and recommendation, to be bound by the recommendation of the board in the same manner as parties are bound upon an award made pursuant to a reference to arbitration on the order of a court of record; every agreement so to be bound made by one party shall be forwarded to the registrar, who shall communicate it to the other party, and if the other party agrees in like manner to be bound by the recommendation of the board, then the recommendation shall be made a rule of the said court on the application of either party and shall be enforceable in like manner.

Application of act to any dispute.

SEC. 63. In the event of a dispute arising in any industry or trade other than such as may be included under the provisions of this act, and such dispute threatens to result in a lockout or strike, or has actually resulted in a lockout or strike, either of the parties may agree in writing to allow such dispute to be referred to a board of conciliation and investigation, to be constituted under the provisions of this act.

2. Every agreement to allow such reference shall be forwarded to the registrar, who shall communicate it to the other party, and if such other party agrees in like manner to allow the dispute to be referred to a board, the dispute may be so referred as if the industry or trade and the parties were included within the provisions of this act.

3. From the time that the parties have been notified in writing by the registrar that in consequence of their mutual agreement to refer the dispute to a board under the provisions of this act, the minister has decided to refer such dispute, the lockout or strike, if in existence, shall forthwith cease, and the provisions of this act shall bind the parties.

MISCELLANEOUS.

Reports not evidence.

SEC. 64. No court of the Dominion of Canada, or of any Province or Territory thereof, shall have power or jurisdiction to recognize or enforce, or to receive in evidence, any report of a board or any testimony or proceedings before a board as against any person or for any purpose, except in the case of a prosecution of such person for perjury.

Technicalities.

SEC. 65. No proceeding under this act shall be deemed invalid by reason of any defect of form or any technical irregularity.

Payment for services.

SEC. 66. The minister shall determine the allowance or amounts to be paid to all persons other than the members of a board, employed by the Government or any board, including the registrar, secretaries, clerks, experts, stenographers, or other persons performing any services under the provisions of this act.

Reports of prosecutions.

SEC. 67. In case of prosecution under this act, whether a conviction is or is not obtained, it shall be the duty of the clerk of the court before which any such prosecution takes place to briefly report the particulars of such prosecution to the registrar within thirty days after it has been determined, and such clerk shall be entitled to a prescribed fee in payment of his services.

Regulations.

SEC. 68. The governor in council may make regulations as to the time within which anything hereby authorized shall be done, and also as to any other matter or thing which appears to him necessary or advisable to the effectual working of the several provisions of this act. All such regulations shall go into force on the day of the publication thereof in the Canada Gazette, and they

shall be laid before Parliament within fifteen days after such publication, or, if Parliament is not then in session, within fifteen days after the opening of the next session thereof.

Expenses.

SEC. **69.** All charges and expenses incurred by the Government in connection with the administration of this act shall be defrayed out of such appropriations as are made by Parliament for that purpose.

Annual reports.

SEC. **70.** An annual report with respect to the matters transacted by him under this act shall be made by the minister to the Governor General, and shall be laid before Parliament within the first fifteen days of each session thereof.

INDUSTRIAL CONCILIATION AND ANTISTRIKE LEGISLATION RELATING TO PUBLIC UTILITIES IN VARIOUS COUNTRIES.

The following brief summary of the conciliation and antistrike provisions of the laws of various countries is compiled from a publication of the British Board of Trade on strikes and lockouts,[1] issued in 1912, and a report of the chief inspector of factories of Victoria on the antistrike legislation throughout the Australian States,[2] published in 1915, verified by an examination of the original texts and supplemented by an examination of the more recent legislation. The summary is reproduced here on account of the numerous inquiries for information which have recently come to the bureau.

COMMONWEALTH OF AUSTRALIA.

Legal machinery for the adjustment of disputes.—Court of conciliation and arbitration, consisting of a president, who is a member of the Federal supreme court and judges of the Federal or a State supreme court, appointed by the president as his deputies. Provision is also made for conciliation committees of equal numbers of employers and employees; assessors representing the parties appointed by the court to advise it and local industrial boards, equally representative of workers and employers, presided over by a judge of the supreme court of the Commonwealth or supreme courts of the States. The procedure is varied. The president of the court may summon parties to a dispute and by conference aim to reach an amicable settlement, or there may be an investigation as the basis of an amicable settlement, or temporary reference of a matter to a conciliation committee or local industrial board. All amicable settlements have the force of a formal award.

Conditions under which strikes and lockouts are prohibited or are illegal.—The initiation or continuance of any strike or lockout by any organization or person is prohibited.

Penalties for enforcement of antistrike legislation.—Penalty of £1,000 ($4,866.50) against any person or organization responsible for a strike or lockout.

NEW SOUTH WALES.

Legal machinery for the adjustment of disputes.—In New South Wales the law is similar to that of the Commonwealth and of Queensland in that there are both an industrial court (which is a superior court and a court of record) and industrial boards for groups of industries or callings, awards by the latter being subject to amendment, variation, or rescission by the court.

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[1] Great Britain Board of Trade. Strikes and Lockouts. Memoranda prepared from information in the possession of the labor department of the board of trade relating to the text and operation of certain laws in the British dominions and foreign countries affecting strikes and lockouts, with special reference to public-utility services. London, 1912. 162 pp. [Cd. 6081.]

[2] Victoria, Australia. Chief Inspector of Factories. Report on industrial legislation throughout the Australian States. Melbourne, 1915. 30 pp.

Conditions under which strikes and lockouts are prohibited or are illegal.—Strikes and lockouts of all kinds are prohibited. An injunction may be issued by the industrial court.

Penalties for enforcement of antistrike legislation.—Employer liable to a fine of £1,000 ($4,866.50); worker liable to a fine of £50 ($243.33), which is a charge on his wages. If striker was member of a union, it may be held liable for not exceeding £20 ($97.33) of the penalty. Penalty on union for aiding or instigating strike is £1,000 ($4,866.50).

QUEENSLAND.

Legal machinery for the adjustment of disputes.—Industrial court administered by a judge appointed by the governor in council. Local industrial boards are also created on the application of a prescribed number of employers and employees. The court has jurisdiction over certain classes of cases directly and over others on appeal from industrial boards.

Conditions under which strikes and lockouts are prohibited or are illegal.—In the case of public utilities, strikes and lockouts are illegal unless a conference has been held before an industrial judge and proved abortive and unless 14 days' notice has been given after termination of conference and a secret ballot has been taken. In all other cases 14 days' notice must be given and a secret ballot taken.

Penalties for enforcement of antistrike legislation.—A fine of £1,000 ($4,866.50) may be levied on employer or union and £50 ($243.33) on worker. If worker is member of a union, not to exceed £20 ($97.33) of the penalty may be levied against the union. Penalties are made a charge on wages and on funds of associations.

SOUTH AUSTRALIA.

Legal machinery for the adjustment of disputes.—The judge of the industrial court brings parties together when any dispute occurs, and may make an award in trades where there is none in force, or may change an existing award. When sitting to make a final adjudication, two assessors, representing the respective parties to the dispute, assist the judge if he thinks fit.

Conditions under which strikes and lockouts are prohibited or are illegal.—All strikes and lockouts are illegal.

Penalties for enforcement of antistrike legislation.—A fine of £500 ($2,433.25) may be levied against an association and a similar fine of £500 ($2,433.25) against a person, or three months' imprisonment. Fine of £20 ($97.33) or three months' imprisonment for picketing. Fines are made a charge against funds of associations and on wages over and above £2 ($9.73) a week. An employer who refuses to employ or a worker who refuses to accept work where there is an industrial agreement or award in operation may be fined.

TASMANIA.

Legal machinery for the adjustment of disputes.—Governor appoints wages boards. Determination of wages boards may be suspended by the governor, and the boards are then required to review their action. Appeals may be taken from the wages boards to the supreme court. No provision is made for conciliation.

Conditions under which strikes and lockouts are prohibited or are illegal.—All strikes and lockouts in wages boards trades on account of any matter as to which a determination has been reached.

Penalties for enforcement of antistrike legislation.—A fine of £500 ($2,433.25) may be levied against an organization and £20 ($97.33) against an individual.

VICTORIA.

No legislation.

WESTERN AUSTRALIA.

Legal machinery for the adjustment of disputes.—The court of arbitration consists of a judge of the supreme court and two representatives from employers and employees, all three being appointed by the governor. No provision is made for local tribunals, and matters come directly before the court of arbitration or the presiding judge.

Conditions under which strikes and lockouts are prohibited or are illegal.—Strikes and lockouts are illegal. An employer can not discharge a worker nor can a worker cease work (1) before a reasonable time has elapsed for matter to be dealt with by the court, or (2) during the time the proceedings in court are pending.

Penalties for enforcement of antistrike legislation.—A fine of £100 ($486.65) may be levied against industrial union or employer, and of £10 ($48.67) against worker.

NEW ZEALAND.

Legal machinery for the adjustment of disputes.—A court of arbitration, consisting of three members appointed by the governor to serve for three years; one "judge of the court," to have the tenure, status, and emoluments of a judge of the supreme court; and one each nominated by unions of employers and workmen, respectively. Councils of conciliation, consisting of a conciliation commissioner appointed by the governor for a term of three years, to have jurisdiction within a designated industrial district, and one to three assessors, appointed by the commissioner for the occasion, on the nomination of the parties applying for a conciliation council, a like number to be appointed on the nomination of the respondents. Boards of investigation, appointed by court of arbitration. The procedure is for a council of conciliation, when requested, to attempt to adjust the controversy. Failing in this, the matter may be referred to the court of arbitration, which shall make a determination. Disputes involving workers on the Government railways or affecting more than one industrial district may be brought before the court in the first instance by application of a union of railway employees in the one case and of any party to the dispute in the other.

Conditions under which strikes and lockouts are prohibited or are illegal.—Under the industrial conciliation and arbitration amendment of 1908, which applies only to cases where an award or an industrial agreement is in force, strikes and lockouts are prohibited.

Under the labor disputes investigation act of 1913, which applies only to cases where there is not an existing award or industrial agreement, notice must be given to the minister, who must refer matter to an industrial commissioner or committee. If no settlement is effected within 14 days from delivery of notice to the minister the labor department conducts a secret ballot, and then 7 days must elapse before cessation of work.

Penalties for enforcement of antistrike legislation.—Employer liable to £500 ($2,433.25) fine and employee to £10 ($48.67). In the case of public utilities the penalty to the worker is £25 ($166.66). For encouraging or instigating a strike or lockout the scale of fines is: Worker, £10 ($48.67); employer or union, £200 ($973.30). The wages of workers may be attached for fines. Penalty for striking or locking out before notice is given or before expiration of seven days from the secret ballot, £10 ($48.67) to a worker and £500 ($2,433.25) to employer. Wages of worker may be attached.

Remarks.—At any time during the progress of a strike 5 per cent of the workers concerned may demand a secret ballot on any question relating to the strike.

AUSTRIA.

Conditions under which strikes and lockouts are prohibited or are illegal.—Strikes and lockouts on public utilities are prohibited.

Penalties for enforcement of antistrike legislation.—Union may be dissolved and funds and property seized.

Remarks.—Before forming a union the organization must notify the Government authorities and send them a copy of the constitution and by-laws. The authorities may then forbid the formation of the union if they consider it will be dangerous to the State.

BELGIUM.

Legal machinery for the adjustment of disputes.—Trade-unions of employees of public utilities are permitted under Government supervision. Employees may present grievances or requests to the minister of railways, posts, and telegraph, through official channels.

Conditions under which strikes and lockouts are prohibited or are illegal.—Strikes and lockouts prohibited on railroads and in all forms of the public service (railway, postal, telegraph, and telephone service, all of which are under State control).

Penalties for enforcement of antistrike legislation.—Imprisonment or fine.

Remarks.—There has been no serious strike on Belgian railroads since their establishment. This is due to the fact that positions on the railways are much sought after, because of stability of employment, pensions, and on account of the prestige of being in the Government service.

CANADA.

Legal machinery for the adjustment of disputes.—The law is administered by the minister of labor, and is under the immediate direction of the registrar of boards of conciliation and investigation appointed by the governor in council. Boards of conciliation and investigation are appointed by the minister of labor, one member being nominated by each party to the dispute and the third by those two. If nominations are not made in due time, the minister appoints on his own motion. Jurisdiction by the minister is obtained by the request of either party for the appointment of a board of conciliation and investigation.

Conditions under which strikes and lockouts are prohibited or are illegal.—Strikes and lockouts are illegal in public utilities and mines until after an investigation by a Government board and the publication of its report.

Penalties for enforcement of antistrike legislation.—A fine ranging from $10 to $100 may be levied on each worker, and from $100 to $1,000 on each employer, for each day an illegal strike or lockout continues; also any person who encourages any employer to declare or continue a lockout, or any employee to go or continue on strike, illegally may be fined from $50 to $1,000. Penalties are not imposed by the Government but must be enforced by the injured party to the dispute.

Remarks.—The object sought in publishing the report of boards of investigation is to enlist the coercive force of public opinion upon the side of the right as found by the board.

DENMARK.

Legal machinery for the adjustment of disputes.—By a law passed in 1910 provision is made for the appointment of a permanent arbitration court of six members, selected from organizations of employers and employees, with a president and vice president, with qualifications of an ordinary judge. It is the duty of this court to make the parties to a dispute respect any agreement between them. A Government conciliator is appointed for two years. Whenever a strike or lockout is impending (public notice being compulsory), it is his duty to intervene and attempt to effect a settlement.

Conditions under which strikes and lockouts are prohibited or are illegal.—Strikes or lockouts are prohibited in cases where court awards or trade agreements are broken. In cases where no trade agreements exist a strike is legal, but public notice must be given before it is started.

Penalties for enforcement of antistrike legislation.—Fines.

ENGLAND.

Legal machinery for the adjustment of disputes.—There is no legal machinery, strictly speaking, for the adjustment of wage disputes on the railways, but effective machinery is in existence which is quasi official, consisting of an agreement between the railroads and their employees, which was originally negotiated by a representative of the board of trade in 1907. It was amended as the result of conferences and the report of a royal commission in 1911. These changes were the outcome of the railway strike in 1911. By this agreement boards are created, with equal representation of railroads and employees, to perform the conciliation work not settled by direct negotiation between the parties. If a settlement can not be reached a neutral chairman or umpire, selected by the conciliation boards from a panel prepared by the board of trade, is called in, and his decision is final.

Conditions under which strikes and lockouts are prohibited or are illegal.—No legislation.

Penalties for enforcement of antistrike legislation.—No legislation.

Remarks.—The adjustment of disputes on other public utilities and in the mining industry is provided for in the conciliation act of 1896. Conciliators or boards of conciliation are appointed by the board of trade. Arbitrators are also appointed on the application of both parties, selected from panels of employers, employees, and "persons of eminence and impartiality" established by the board of trade. For conciliation proceedings the board of trade acts on its own initiative or by the request of either party; for arbitration, on the application of both parties.

FRANCE.

Conditions under which strikes and lockouts are prohibited or are illegal.—The only qualification as to complete freedom of action in the railway service is that any engineer, fireman, or trainman shall not desert his post during the progress of a journey. Postal employees and employees in shipping service controlled by the Government are prohibited from striking.

Penalties for enforcement of antistrike legislation.—Desertion of trains between terminals is punishable with imprisonment ranging from six months to two years. Postal and other civil employees may be dismissed or suffer losses in pay. The monopoly privilege may be withdrawn from the shipping service on which a strike occurs.

Remarks.—In all occupations except those mentioned the right of employers and employees to take concerted action in a peaceful manner with a view to

cessation of work has been officially recognized since 1884. On October 2, 1910, the National Federation of Railway Employees of France and the Federation of Unions of Railway Engineers and Firemen called a general strike on all the railroads of the country. The Government, using its full authority under military laws, called for a mobilization of the strikers, and ordered them to do military duty for three weeks. Their military duties were specified as the keeping of the railways under normal working conditions under the orders of their superior officers. This measure defeated the strike, which was called off after six days.

GERMANY.

Legal machinery for the adjustment of disputes.—Means for enabling railway workers of all groups to bring their requests and grievances to the notice of the authorities have been instituted by all the State railway administrations in Germany under the name of "workmen's committees."

Conditions under which strikes and lockouts are prohibited or are illegal.—Strikes and lockouts are practically prohibited on public utilities. There are no specific laws forbidding strikes, but rules and practices of railway and other public utilities administration make strikes impossible. About 90 per cent of the organized railway employees belong to unions, the by-laws of which specifically waive all claim to the right to strike.

Penalties for enforcement of antistrike legislation.—No specific penalties for engaging in strikes, but workmen are forbidden to belong to unions which assert the right to strike. All union organizations and by-laws are subject to governmental sanction. The coercive force of the law is found in the fact that a railway employee who engaged in a strike would be dismissed or fail of advancement in his work. Every Government employee looks forward to attaining the status of an "official," and this is practically impossible if he belongs to or is known to sympathize with a trade-union which does not meet with Government approval.

HOLLAND.

Legal machinery for the adjustment of disputes.—Delegates are selected from different groups of railway employees who are authorized to present the wishes and complaints of railway workers before the managers. Arbitration boards have been established for the enforcement of penalties imposed because of infractions of working rules and conditions.

Conditions under which strikes and lockouts are prohibited or are illegal.—Strikes in railway service are prohibited.

Penalties for enforcement of antistrike legislation.—Imprisonment or fine.

Remarks.—Legislation prohibiting strikes was the outcome of a general strike in the Dutch railway service in 1903.

ITALY.

Conditions under which strikes and lockouts are prohibited or are illegal.—Strikes are prohibited in railway and public service.

Penalties for enforcement of antistrike legislation.—Fine and loss of employment.

Remarks.—Legislation relative to fines and loss of employment would not practically prevent strikes, because of the impossibility of enforcing the law upon so many individuals. The real restraining influence is the power of the Government to call out the reserves and compel strikers to resume work under military law.

OTTOMAN EMPIRE.

Legal machinery for the adjustment of disputes.—In the case of a dispute relative to wages or working conditions, a conciliation board is organized, composed of six members, three representing employers and three representing employees. The boards are presided over by an official appointed by the Government. The agreements reached by these boards are enforced by the Government. If the parties to the dispute can not agree, the employees are free to stop work, but nothing must be done by them opposed to freedom of action.

Conditions under which strikes and lockouts are prohibited or are illegal.—Strikes in public utilities are unlawful until grounds of dispute are communicated to the Government and attempts at conciliation have failed.

Penalties for enforcecent of antistrike legislation.—Imprisonment or fine.

Remarks.—The organization of trade-unions in establishments carrying out any public service is forbidden.

PORTUGAL.

Conditions under which strikes and lockouts are prohibited or are illegal.—Illegal in public utilities until 8 to 12 days' notice has been given, together with a statement as to the causes for a strike.

Penalties for enforcement of antistrike legislation.—Loss of employment.

Remarks.—In all services, except public utilities, strikes have been expressly permitted since the establishment of the Republic in 1910.

ROUMANIA.

Conditions under which strikes and lockouts are prohibited or are illegal.—Strikes are prohibited in public utilities.

Penalties for enforcement of antistrike legislation.—Imprisonment and loss of employment.

Remarks.—No employee of a public utility can join a trade-union without the authorization of the Government.

RUSSIA.

Conditions under which strikes and lockouts are prohibited or are illegal.—Strikes are prohibited among employees of public utilities.

Penalties for enforcement of antistrike legislation.—Imprisonment and loss of employment. Authorities may arrest or banish strikers without bringing them before a court.

SPAIN.

Conditions under which strikes and lockouts are prohibited or are illegal.—Strikes are illegal in public utilities until five to eight days' notice is given, together with a statement as to the causes of the strike.

Penalties for enforcement of antistrike legislation.—Leaders and officials of labor organizations or concerted movements who do not make a declaration as to the causes for a strike are liable to imprisonment.

Remarks.—In industries other than public utilities strikes are expressly allowed, provided they are not accompanied by threats or violence.

SWITZERLAND.

Legal machinery for the adjustment of disputes.—The Canton of Geneva has established a system of conciliation and arbitration. Conciliators are elected

directly by the two partles to the dispute. If they can not reach a settlement, recourse is had to an arbitration board under Government auspices. There is no law for the settlement of disputes in the Federal railway service.

Conditions under which strikes and lockouts are prohibited or are illegal.—Strikes are prohibited in the Federal railway service and in the Canton of Geneva whenever an industrial agreement or award is broken.

Penalties for enforcement of antistrike legislation.—In the Federal service strikers are punishable by fines and cautions. There are no penalties in the Canton of Geneva.

Remarks.—There have been no strikes on the railways of Switzerland since their nationalization in 1897.

TRANSVAAL.

Legal machinery for the adjustment of disputes.—The Transvaal law is administered by a department of labor. Boards of investigation are appointed on the request of either party to a dispute. The board has the power of the supreme court as to securing evidence, etc., but can not make binding orders. Failing the adjustment of a dispute by agreement, the board reports to the minister of labor its recommendations, which are officially published and also given to the newspapers.

Conditions under which strikes and lockouts are prohibited or are illegal.—In public utilities, the mining industry, and in any other industry to which the provisions of the act are extended by proclamation, strikes are unlawful until after an inquiry by a Government board and until one month after the publication of the board's report.

Penalties for enforcement of antistrike legislation.—Any striker is liable to a fine of £10 to £50 ($48.67 to $243.33) a day, and, in default of fine, imprisonment, or imprisonment for 3 months without the option of fine. Anyone encouraging another to strike may be fined £50 to £250 ($243.33 to $1,216.63) or 6 months' imprisonment. Any employer declaring a lockout may be fined £100 to £1,000 ($486.65 to $4,866.50) a day, or given 12 months' imprisonment.

Remarks.—The Transvaal law is based, as regards prevention and procedure, upon the Canadian Industrial Disputes Investigation Act of 1907.

UNITED STATES.

Legal machinery for the adjustment of disputes.—Law providing for the conciliation and arbitration of disputes on railways which interrupt or threaten to interrupt the business of the employer to the detriment of the public interest, under the administration of a board of mediation and conciliation appointed by the President. The board attempts mediation and conciliation, which failing, the board seeks to procure the submission, through an agreement of the parties, of the dispute to a board of arbitration. Jurisdiction is obtained at the request of either party to a dispute, or the board may proffer its services.

Conditions under which strikes and lockouts are prohibited or are illegal.—No legislation by the Federal Government.

Penalties for enforcement of antistrike legislation.—No penalties against strikes.

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